**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.103 OF 2006**

Savitribai Buva Anpat
(since deceased through L.R.) & Ors. ...Appellants

Vs.

Kalavati Kakasaheb Anpat & Ors. ...Respondents

Mr.Jaydeep S. Deo for the Appellants
None for the Respondents.

**CORAM: A.S.OKA, J.**
**DATED: APRIL 19,2006.**

**P.C.:**

1. Heard Shri Deo for the Appellants. The Appellants are the original Defendants. The suit filed by the Respondent No.1 for partition and separate possession has been decreed by the Trial Court and the decree of the Trial Court has been confirmed in Appeal by the District Court subject to some modification made as regards the quantum of the shares of the parties.

2. The contention of the learned Advocate for the Appellant is that the land admeasuring 2 acres was allotted in the year 1970 to the Respondent No.1. The said land was out of Gat No.285 and she was put in exclusive possession of the said area of 2 acres. He submitted that even assuming that the said area was given to the Respondent No.1 in lieu of her claim for maintenance, it will become her absolute estate in

view of Section 14 of Hindu Succession Act. He, therefore, submitted that the respondent No.1 was not entitled to claim share in the suit property.

3. I have considered the submissions. The defence of the Appellants to the suit filed by the Respondent No.1 was that there was a prior partition in which the Respondent no.1 was given a share. On considering the oral and documentary evidence on record, both the Courts below have recorded a categorical finding that the Appellants have failed to prove their case of partition. Apart from that the Appellate court has referred to mutation entry made in respect of the land admeasuring 2 acres in the name of the Respondent No.1 and has observed that in the mutation entry itself it is mentioned that it was not at all on the basis of the partition and it was on the basis of the family arrangement that the possession of the land having an area of 2 acres was given to the Respondent No.1. As the Appellants have failed to prove their case of earlier partition, no fault can be found with the decree of partition. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

**Judge.**